

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:
WILFREDO MATOS and SAUL LOPEZ GONZALEZ,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
738 RESTAURANT CORP.; G. DULI CORP.; GUS	:
DOULIS, individually; JOHN KAPETANOS,	:
individually,	:
	:
Defendants.	:
	:
-----X	

ECF Case
Docket Number 08-CV-0979 (AKH)(THK)

CIVIL CASE MANAGEMENT PLAN

After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

- A. This is case is to be tried to a jury
- B. Non-Expert Discovery:
 1. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All non-expert discovery is to be completed by **November 7, 2008**, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. The parties shall list the completed discovery activities and anticipated completion dates in Attachment A, annexed hereto.
 2. Joinder of additional parties must be accomplished by **August 15, 2008**.
 3. Amended pleadings may be filed without leave of the Court until **May 16, 2008**.
- C. For all causes of action seeking monetary damages, each party shall identify and quantify in Attachment B, annexed hereto, each component of damages alleged; or, if not known, specify and indicate by what date Attachment B shall be filed providing such information.
- D. Motions, Settlement, Second Pre-Trial Conference, and Expert Discovery
 1. Upon the conclusion of non-expert discovery, and no later than the date provided below, the parties may file dispositive motions. The parties shall agree to a schedule, and promptly submit same for the Court's approval, providing for no more than three rounds of serving and filing papers: supporting affidavits and

briefs, opposing affidavits and briefs, and reply affidavits and briefs. The last day for filing dispositive motions shall be **December 12, 2008**.

- a. There shall be no cross-motions. Any motions not made by the agreed date shall, unless the court orders otherwise, not be considered until after the timely-filed motion is determined.
 - b. Papers served and filed by the parties shall conform to the requirements set out in the Court's Individual Rules.
2. Either before or after the motion schedule set out above, counsel for the parties shall meet for at least two hours at the office of plaintiff's counsel, to discuss settlement. The date for the meeting is **November 7, 2008**.
3. Approximately one week thereafter, the parties shall meet with the Court for a Second Case Management Conference to discuss the status of the case, the status and prospects of settlement and whether alternative disputes-resolution procedures should be utilized, the need for and a schedule regulating experts and expert-discovery, a discovery bar date, and any other issue counsel or the Court wish to discuss. The Case Management Conference will be held on **November 14, 2008**.
- E. Any requests for relief from any date provided in this Case Management Plan shall conform to the Court's Individual Rules, and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, an proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.
- F. A final pre-trial conference will be held on a date to be set, as close as possible to the date that trial is expected to begin. The parties, three dates before said meeting, shall submit their pre-trial order, conforming to the Court's Individual Rules and, at the conference, deliver their exhibit books containing all exhibits parties actually intend to offer at the trial
- G. Pre-Trial Motions:

Applications for adjournments and for discovery or procedural ruling will reflect or contain the positions of all parties, as provided by the Court's Individual Rules, and are not to modify or delay the conduct of discovery or the schedules provided in this Case Management Plan except upon leave of the Court.

SO ORDERED.

DATED: New York, New York
May ___, 2008.

ALVIN K. HELLERSTEIN
United States District Judge

ATTACHMENT A:

The parties are to list the discovery activities (i.e. production of documents, number of depositions, requests to admit, interrogatories) and anticipated completion dates:

<u>DISCOVERY ACTIVITIES</u>	<u>COMPLETION DATE</u>
1. Answer	May 16, 2008
2. Initial Disclosures	May 20, 2008
3. Serve First Discovery Requests	June 13, 2008
4. Responses Due	July 14, 2008
5. Serve Supplemental Discovery Requests	July 28, 2008
6. Respond to Supplemental Discovery Requests	August 28, 2008
7. Complete Party Depositions	October 10, 2008
8. Complete Non-Party Depositions	October 31, 2008
8. Close Discovery	November 7, 2008
9. File Dispositive Motions, Affidavits, and Briefs	December 12, 2008
10. Opposition Affidavits and Briefs	January 9, 2009
11. Reply Affidavits and Briefs	January 23, 2009

ATTACHMENT B

For all causes of action seeking monetary damages, each party shall identify and quantify each component of damages alleged:

1. PLAINTIFF'S CLAIMS:

Wilfredo Matos:

Unpaid wages: \$51,926.59
Liquidated damages: \$40,995.45
Interest: \$2,088.74
Total: \$95,010.78

Saul Lopez:

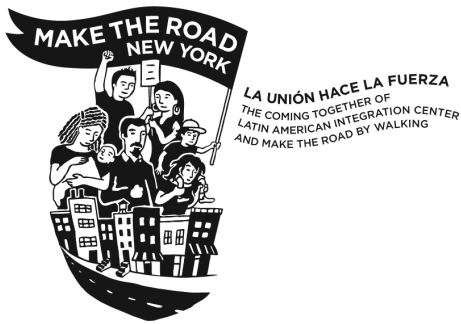
Unpaid wages: \$42,969.45
Liquidated damages: \$42,969.45
Total: \$85,938.90

2. COUNTERCLAIMS AND CROSS-CLAIMS:

None asserted at this time.

3. THIRD-PARTY CLAIMS:

None asserted at this time.



May 16, 2008

VIA ECF

The Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Matos v. 738 Restaurant Corp. et al, 08-CV-979 (AKH)(THK)

Dear Judge Hellerstein,

I represent the plaintiffs in the above-titled action. On May 6, 2008, we held a teleconference with Nils Shillito, counsel for defendants, pursuant to Fed. R. Civ. P. 26(f). Please find attached to this letter the parties' jointly-prepared Civil Case Management Plan.

Warm Regards,

\s\

Elizabeth Wagoner

CC:
Nils C. Shillito
Stephen D. Hans & Associates, P.C.
718.275.6700 x 205